

METHODOLOGY for ASSESSMENT REPORT

**Police of Puerto Rico's Response to the demonstrations and incidents
involving the WORKER'S DAY (May 1st, 2018)**

*Office of the Technical Compliance Advisor to the
Agreement for the Sustainable Reform of the Puerto Rico
Police Department*

**TCA ASSESSMENT METHODOLOGY FOR
Crowd Control Operations of May 1st,
2018**

On May 4, 2018, Docket 831 issued by the United States District Court in case Number 3:12-cv-02039 stated the following:

“The Court hereby designates retired United States special agent and TCA investigator Jose Pujol to conduct an independent evaluation and assessment, followed by a report, of the May 1, 2018 (Worker's Day) demonstrations. The parties shall fully cooperate with him and immediately agree as to the evaluation's methodology. See, e.g., Order of April 26, 2017, Docket No. 511 at 2, lines 4-7”.

Pursuant to the Court's instructions to assess events and report on findings the following Assessment Methodology for the Crowd Controls Operations employed by the Puerto Rico Police Bureau is hereby submitted:

Nature of the Assessment:

The nature of this assessment is multifaceted, sensitive and complex, therefore, it requires a great deal of information gathering and a significant amount of time to conduct the assessment at its fullest. The instruments to be use for this assessment among others are: 1) PRPB Document Research, 2) Interviews (individual, collective or focus groups, 3) observation and research of available Videos, 4) Research and evaluation of Training provided, 5) Evaluation of documentation on the demonstrations (by PRPD) and statistical Data Research, 6) Interview of witnesses 7) Chain of Command opinions on lessons learned, 8) Non-Lethal weapons used, 9) Communications and Information Technology. These instruments can be used alone or complementing each other. Upon completion, the TCA will submit a report to the Court and brief the Parties and the PRPB.

Focus of the Assessment:

The immediate focus of this **ASSESSMENT** is centered on PRPB's compliance with the Agreement for the Sustainable Reform of the PRPB, hereinafter the Agreement, and the strict regard for the Civil Rights of individuals pursuant to the Constitutions of the United States of America and the Commonwealth of Puerto Rico. The Assessment further includes evaluation of compliance with policies and trainings on policing of mass demonstrations, command and control, as well as communications and the use of Information Technology ("IT"). Paragraph 262 of the Agreement provides the TCA with directives on how to conduct the **ASSESSMENT**, that is, "To facilitate its work, the TCA may conduct on-site visits and assessments without prior notice to the PRPB. **The TCA shall have access to all necessary individuals, facilities, and documents, which shall include access to Agreement-related meetings and reviews such as critical incident reviews, use of force review board meetings, and disciplinary hearings.**"

The Agreement and PRPB's General Order on Crowd Control and Management (600-625) stand as the primary legal basis for the Assessment, however, any violation of criminal statutes within the province of local or federal authorities will be noted and duly reported. Other Sections of the General Order that will be used as a legal basis are the following:

Section 601 – "Reglas para el Uso de Fuerza por Miembros del NPPR" (Rules for the Use of Force by Members of the PPRB.)

Section 602 – "Uso y Manejo del Dispositivo de Control Electrico" (Use and Operation of the Electric Control Device.)

Section 603 – “Uso y Manejo de Armas de Impacto” (Use and Handling of Impact Weapons.)

Section 604 – “Uso y Manejo de Agentes Químicos” (Use and Handling of Chemical Agents.)

Section 605 - “Informe e Investigación de Incidentes de Uso de Fuerza de Miembros del NPPR” (Report and Investigation of Incidents of Use of Force by Members of the PPRB.)

Section 610 – “Normas a Seguir Para la Grabación de Eventos Públicos” (Rules to Follow for the Recording of Public Events.)

Section 615 – “Autoridad del NPPR Para Llevar a Cabo Arrestos, Citaciones” (PPRB Authority To Carry Out Arrests, Citations.)

Section 620 – “Normas y Procedimientos para la Utilización de Armas Especializadas por Miembros de las Divisiones de Tácticas Especializadas” (Rules and Procedures for the Use of Specialized Weapons by Members of the Specialized Tactics Divisions)

In sum, the assessment will evaluate whether PRPB’s actions and response complied with best practices and constitutional protections as mandated by the Agreement.

Extent of Assessment:

The Assessment will cover and evaluate all actions taken by the PRPB before, during and after the aforesaid event, regarding the following areas of the Agreement: Supervision and Management; Equal Protection and Non-discrimination; Use of Force with emphasis on Crowd Control; Searches and Seizures and any corresponding Arrests and Citations related to the event. Training and its implementation will be evaluated with actual deportment displayed in the event. Furthermore, the assessment will extend to internal investigations, Civil complaints and Discipline section.

The Assessment will be conducted by Mr. Jose Pujol with the legal support of the Constitutional attorneys of the TCA’s Office.

- The Assessment will be conducted by interviewing members of the PRPB and other Commonwealth Officials that may have participated in either the planning, the organizing, or the execution of the Police mission in the following event: “Worker’s Day” May 1, 2018.
- The Assessment will also be conducted by performing interviews of community members, participants and bystanders but may also include

members of organizations that participated during any of the events as observers, and/or as liaison with the Puerto Rico Police Department (“Colegio de Abogados” (Puerto Rico Bar Association), American Civil Liberties Union of PR (ACLU), and others). The Assessment will also be conducted by conducting interviews with individuals having pertinent information in relation with the previously mentioned event.

- As part of the Assessment, all available video recordings and photographs will be reviewed searching for the accuracy of the information provided by all interviewed individuals.
- As part of the Assessment, all available documents, reports and forms prepared by the PRPB and any other Commonwealth Agencies or dependencies, if any, in relation to the event, will be reviewed.
- The Assessment will also evaluate the Self-Assessment performed by the PRPB, once completed, identifying areas in which the PRPB can better improve to be in accordance with the PRPD’s General Order on Crowd Control and Management (600-625. Depending on their existence/availability, the following documents will be examined and considered:
 - a) Criminal complaints filed, if any.
 - b) Incident and Use of Force Reports.
 - c) Operational Plans.
 - d) Administrative complaints and administrative investigations, if any.
 - e) After action reports and/or reviews.
 - f) Pertinent training records of any PRPB member against whom a complaint (criminal/civil/administrative is filed.
- The Assessment will attempt to compare the model used by PRPB for Crowd Control and Deployment of DOT with those considered under the best practices standard at National level. If available, results at National level will be compared with those under our assessment as it relates to “Use of Force” and results.

The specifications of this assessment will provide the opportunity to focus on the analysis of crowd control and policing of mass demonstrations under the *aegis* of policies enacted pursuant to the Agreement and regulating the current conduct of the PRPB; Analysis of issues stemming from crowd control events: use of force, including use of pepper spray, tear gas, batons and impact weapons; search and seizure, supervision, administrative complaints intake, detention and holding cells policies; Review of the self-evaluation/self-assessment conducted by the PRPD and finally, an analysis of best practices

and models of policing mass demonstration (command and control, negotiated agreement) and recommendations for the PRPD in our role as technical advisors.

Specific areas of reference data (Reference data, in the context of data management, are the data objects relevant to transactions, consisting of sets of values, statutes and/or classification schema):

- historical reference on lack of crowd control policies
- current policy on crowd control
- PRPB annual revision
- number of officers/units trained under the new policy
- number of agents deployed to the demonstration and their training
- operational plans developed by PRPB for crowd control and mass demonstrations
- the specific plan, if any, for the demonstrations that are the focus of the study
- equipment, resources, supervision structure, chain of command and command issues
- strategy and tactics observed during the event
- interview data from civilians and officers that participated in the events
- after-action report
- complaints filed, if any operational and personnel action, performance, process of complaints and corrective action, if any

Specifications:

Qualitative data gathering methods:

1. Documentary Research:

We will review documentary evidence. This documentation will include internal and external institutional reports, correspondence, organizational and staffing charts, personnel and training records, administrative reports, MOUs and other agreements, planning documents, needs assessments. The review of documents or any type of physical evidence will not be limited to those provided by the PRPB. Documents may include all pertinent materials prepared by any other government agency, local or federal, made available for

this assessment including medical records provided by individuals claiming use of excessive force.

2. Organizational self-assessment or internal questionnaire.

We will provide, if needed, a structured questionnaire for the PRPB self-assessment in the areas identified in the process. The TCA will also review PRPB's self-assessment reports (After Action Review process).

3. Interviewing Key Personnel:

We will interview key individuals who will be able to provide information about the events. The best method to collect primary source data is the interviewing of key decision-makers. Unlike an organizational self-assessment report or questionnaire, organizational capacity assessment generates its basic assumptions based on face-to-face, one-on-one targeted interviews. Instead of using a structured questionnaire framework, where interviewers read the questions exactly as they appear on the survey questionnaire and the choice of answers to the questions is often fixed in advance. We special emphasis will be placed on semi-structured questions that allow expanded answers and may bring into perspective additional unknown issues.

4. Focus Group Discussions:

Aside from in-depth interviews, the TCA will use other qualitative methods as needed, such as focus group discussions. The focus group process can take advantage of interactions within the group to stimulate participants to the exchange of information that may generate new material. Talking to staff or other stakeholders of an institution in group provides an opportunity to elicit information or check impressions gained from face-to-face interviews

5. Site visits and observation:

The TCA Office will use site visits and observation to gain additional information. Observations can expose information not otherwise obtained or validate information gained by other means. Observation of the physical assets of an institution is a way to assess an institution's stock (for example, inventory, equipment, facilities, and so forth). Observation of the behavior of

the staff is much more difficult, especially if the time span available is short, but may provide important insight.

6. Quantitative data collection methods

The TCA Office will use the expertise of the members of the Core Team familiar with statistical techniques and data analysis to evaluate complex matters where statistical significance is a prime or significant element required to determine the extent of problem and the available solution. Although simple descriptive analysis procedures are usually sufficient, results sometimes may end in the realm of unwanted generalizations. The focus will be on measures, central tendency, variability, comparison of groups, and relationships between variables.

The TCA instructed Investigations Consultant (IC) Jose L. Pujol to conduct the Court ordered **ASSESSMENT** and to report on his findings. IC Jose Pujol will base his work on:

- His law enforcement training and experience as a federal Special Agent for approximately twenty-one (21) years.
- His knowledge as Federal Defensive Tactics Instructor (certified in 1997 by the Federal Law Enforcement Training Center located in Glynco, Brunswick, Georgia).
- The Agreement for the Sustainable Reform of the Puerto Rico Police Department (Item # 73)
- The Puerto Rico Police Bureau's General Orders.
- Consultation on complex legal issues with TCA Constitutional Attorneys

IC Jose Pujol based on law enforcement experience, training, knowledge of the Agreement for the Sustainable Reform of the Puerto Rico Police Department and the Puerto Rico Police Bureau's General Orders, all the evidence and facts collected during the Assessment, all the work performed, the support and advice received from all the TCA team, will formulate findings and recommendations that will be fully described in an Assessment Report and will be duly submitted.

To prepare the Assessment Report, generic identifiers will be used in place of the actual names of witnesses, Police Officers/Agents and other individuals

for the public version of this report that will be filed to the Court. A sealed document containing the key to all the assigned identifiers with the names of the persons to whom they were assigned, will be filed with the Court with access limited to the Court, the TCA and to the parties involved (USDOJ and PRDOJ).

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